

Public Law 107-331  
107th Congress

An Act

Dec. 13, 2002  
[S. 2017]

To amend the Indian Financing Act of 1974 to improve the effectiveness of the Indian loan guarantee and insurance program.

Indian Financing  
Amendments Act  
of 2002.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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## TITLE I—INDIAN FINANCING ACT AMENDMENTS

**SEC. 101. SHORT TITLE.**

This Act may be cited as the "Indian Financing Amendments Act of 2002".

25 USC 1451  
note.

**SEC. 102. FINDINGS AND PURPOSE.**

25 USC 1485  
note.

(a) FINDINGS.—Congress finds that—

(1) the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) was intended to provide Native American borrowers with access to commercial sources of capital that otherwise would not be available through the guarantee or insurance of loans by the Secretary of the Interior;

(2) although the Secretary of the Interior has made loan guarantees and insurance available, use of those guarantees and that insurance by lenders to benefit Native American business borrowers has been limited;

(3) twenty-seven years after the date of enactment of the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.), the promotion and development of Native American-owned business remains an essential foundation for growth of economic and social stability of Native Americans;

(4) use by commercial lenders of the available loan insurance and guarantees may be limited by liquidity and other capital market-driven concerns; and

(5) it is in the best interest of the insured and guaranteed loan program of the Department of the Interior—

(A) to encourage the orderly development and expansion of a secondary market for loans guaranteed or insured by the Secretary of the Interior; and

(B) to expand the number of lenders originating loans under the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.).

(b) PURPOSE.—The purpose of this Act is to reform and clarify the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) in order to—

(1) stimulate the use by lenders of secondary market investors for loans guaranteed or insured under a program administered by the Secretary of the Interior;

(2) preserve the authority of the Secretary to administer the program and regulate lenders;

(3) clarify that a good faith investor in loans insured or guaranteed by the Secretary will receive appropriate payments;

(4) provide for the appointment by the Secretary of a qualified fiscal transfer agent to establish and administer a system for the orderly transfer of those loans; and

(5)(A) authorize the Secretary to promulgate regulations to encourage and expand a secondary market program for loans guaranteed or insured by the Secretary; and

(B) allow the pooling of those loans as the secondary market develops.

#### SEC. 103. AMENDMENTS TO INDIAN FINANCING ACT.

(a) LIMITATION ON LOAN AMOUNTS WITHOUT PRIOR APPROVAL.—Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended in the last sentence by striking “\$100,000” and inserting “\$250,000”.

(b) SALE OR ASSIGNMENT OF LOANS AND UNDERLYING SECURITY.—Section 205 of the Indian Financing Act of 1974 (25 U.S.C. 1485) is amended—

(1) by striking “Any loan guaranteed” and inserting the following:

“(a) IN GENERAL.—Any loan guaranteed or insured”; and

(2) by adding at the end the following:

“(b) INITIAL TRANSFERS.—

“(1) IN GENERAL.—The lender of a loan guaranteed or insured under this title may transfer to any individual or legal entity—

“(A) all rights and obligations of the lender in the loan or in the unguaranteed or uninsured portion of the loan; and

“(B) any security given for the loan.

“(2) ADDITIONAL REQUIREMENTS.—With respect to a transfer described in paragraph (1)—

“(A) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (i); and

“(B) the lender shall give notice of the transfer to the Secretary.

“(3) RESPONSIBILITIES OF TRANSFEREE.—On any transfer under paragraph (1), the transferee shall—

“(A) be deemed to be the lender for the purpose of this title;

“(B) become the secured party of record; and

“(C) be responsible for—

“(i) performing the duties of the lender; and

“(ii) servicing the loan in accordance with the terms of the guarantee by the Secretary of the loan.

“(c) SECONDARY TRANSFERS.—

“(1) IN GENERAL.—Any transferee under subsection (b) of a loan guaranteed or insured under this title may transfer to any individual or legal entity—

“(A) all rights and obligations of the transferee in the loan or in the unguaranteed or uninsured portion of the loan; and

“(B) any security given for the loan.

“(2) ADDITIONAL REQUIREMENTS.—With respect to a transfer described in paragraph (1)—

“(A) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (i); and

“(B) the transferor shall give notice of the transfer to the Secretary.

“(3) ACKNOWLEDGMENT BY SECRETARY.—On receipt of a notice of a transfer under paragraph (2)(B), the Secretary shall issue to the transferee an acknowledgment by the Secretary of—

“(A) the transfer; and

“(B) the interest of the transferee in the guaranteed or insured portion of the loan.

“(4) RESPONSIBILITIES OF LENDER.—Notwithstanding any transfer permitted by this subsection, the lender shall—

“(A) remain obligated on the guarantee agreement or insurance agreement between the lender and the Secretary;

“(B) continue to be responsible for servicing the loan in a manner consistent with that guarantee agreement or insurance agreement; and

“(C) remain the secured creditor of record.

“(d) FULL FAITH AND CREDIT.—

“(1) IN GENERAL.—The full faith and credit of the United States is pledged to the payment of all loan guarantees and loan insurance made under this title after the date of enactment of this subsection.

“(2) VALIDITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the validity of a guarantee or insurance of a loan under this title shall be incontestable if the obligations of the guarantee or insurance held by a transferee have been acknowledged under subsection (c)(3).

“(B) EXCEPTION FOR FRAUD OR MISREPRESENTATION.—Subparagraph (A) shall not apply in a case in which a transferee has actual knowledge of fraud or misrepresentation, or participates in or condones fraud or misrepresentation, in connection with a loan.

“(e) DAMAGES.—Notwithstanding section 3302 of title 31, United States Code, the Secretary may recover from a lender of a loan under this title any damages suffered by the Secretary as a result of a material breach of the obligations of the lender with respect to a guarantee or insurance by the Secretary of the loan.

“(f) FEES.—The Secretary may collect a fee for any loan or guaranteed or insured portion of a loan that is transferred in accordance with this section.

“(g) CENTRAL REGISTRATION OF LOANS.—On promulgation of final regulations under subsection (i), the Secretary shall—

“(1) provide for a central registration of all guaranteed or insured loans transferred under this section; and

“(2) enter into 1 or more contracts with a fiscal transfer agent—

“(A) to act as the designee of the Secretary under this section; and

“(B) to carry out on behalf of the Secretary the central registration and fiscal transfer agent functions, and issuance of acknowledgments, under this section.

“(h) POOLING OF LOANS.—

“(1) IN GENERAL.—Nothing in this title prohibits the pooling of whole loans or interests in loans transferred under this section.

“(2) REGULATIONS.—In promulgating regulations under subsection (i), the Secretary may include such regulations to effect orderly and efficient pooling procedures as the Secretary determines to be necessary.

Deadline.

“(i) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall develop such procedures and promulgate such regulations as are necessary to facilitate, administer, and promote transfers of loans and guaranteed and insured portions of loans under this section.”.

Yankton Sioux  
Tribe and Santee  
Sioux Tribe  
Equitable  
Compensation  
Act.

## TITLE II—YANKTON SIOUX AND SANTEE SIOUX TRIBES EQUITABLE COM- PENSATION

### SEC. 201. SHORT TITLE.

This title may be cited as the “Yankton Sioux Tribe and Santee Sioux Tribe Equitable Compensation Act”.

### SEC. 202. FINDINGS.

Congress finds that—

(1) by enacting the Act of December 22, 1944, commonly known as the “Flood Control Act of 1944” (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.) Congress approved the Pick-Sloan Missouri River Basin program (referred to in this section as the “Pick-Sloan program”)—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the waters impounded for the Fort Randall and Gavins Point projects of the Pick-Sloan program have inundated the fertile, wooded bottom lands along the Missouri River that constituted the most productive agricultural and pastoral lands of, and the homeland of, the members of the Yankton Sioux Tribe and the Santee Sioux Tribe;

(3) the Fort Randall project (including the Fort Randall Dam and Reservoir) overlies the western boundary of the Yankton Sioux Tribe Indian Reservation;

(4) the Gavins Point project (including the Gavins Point Dam and Reservoir) overlies the eastern boundary of the Santee Sioux Tribe;

(5) although the Fort Randall and Gavins Point projects are major components of the Pick-Sloan program, and contribute to the economy of the United States by generating a substantial amount of hydropower and impounding a substantial quantity of water, the reservations of the Yankton Sioux Tribe and the Santee Sioux Tribe remain undeveloped;

(6) the United States Army Corps of Engineers took the Indian lands used for the Fort Randall and Gavins Point projects by condemnation proceedings;

(7) the Federal Government did not give the Yankton Sioux Tribe and the Santee Sioux Tribe an opportunity to receive compensation for direct damages from the Pick-Sloan program, even though the Federal Government gave 5 Indian reservations upstream from the reservations of those Indian tribes such an opportunity;

(8) the Yankton Sioux Tribe and the Santee Sioux Tribe did not receive just compensation for the taking of productive agricultural Indian lands through the condemnation referred to in paragraph (6);

(9) the settlement agreement that the United States entered into with the Yankton Sioux Tribe and the Santee Sioux Tribe to provide compensation for the taking by condemnation referred to in paragraph (6) did not take into account the increase in property values over the years between the date of taking and the date of settlement; and

(10) in addition to the financial compensation provided under the settlement agreements referred to in paragraph (9)—

(A) the Yankton Sioux Tribe should receive an aggregate amount equal to \$23,023,743 for the loss value of 2,851.40 acres of Indian land taken for the Fort Randall Dam and Reservoir of the Pick-Sloan program; and

(B) the Santee Sioux Tribe should receive an aggregate amount equal to \$4,789,010 for the loss value of 593.10 acres of Indian land located near the Santee village.

#### SEC. 203. DEFINITIONS.

In this title:

(1) INDIAN TRIBE.—The term “Indian tribe” has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) SANTEE SIOUX TRIBE.—The term “Santee Sioux Tribe” means the Santee Sioux Tribe of Nebraska.

(3) YANKTON SIOUX TRIBE.—The term “Yankton Sioux Tribe” means the Yankton Sioux Tribe of South Dakota.

#### SEC. 204. YANKTON SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the “Yankton Sioux Tribe Development Trust Fund” (referred to in this section as the “Fund”). The Fund shall consist of any amounts deposited in the Fund under this title.

(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)—



(1) \$23,023,743; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) INVESTMENT OF TRUST FUND.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of the Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO YANKTON SIOUX TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Yankton Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Yankton Sioux Tribe has adopted a tribal plan under section 206.

(C) USE OF PAYMENTS BY YANKTON SIOUX TRIBE.—The Yankton Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 206.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

#### SEC. 205. SANTEE SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the "Santee Sioux Tribe Development Trust Fund" (referred to in this section as the "Fund"). The Fund shall consist of any amounts deposited in the Fund under this title.

(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)—

(1) \$4,789,010; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph

(1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) **INVESTMENT OF TRUST FUND.**—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of the Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) **PAYMENT OF INTEREST TO TRIBE.**—

(1) **WITHDRAWAL OF INTEREST.**—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) **PAYMENTS TO SANTEE SIOUX TRIBE.**—

(A) **IN GENERAL.**—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Santee Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) **LIMITATION.**—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Santee Sioux Tribe has adopted a tribal plan under section 206.

(C) **USE OF PAYMENTS BY SANTEE SIOUX TRIBE.**—The Santee Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 206.

(e) **TRANSFERS AND WITHDRAWALS.**—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

#### SEC. 206. TRIBAL PLANS.

(a) **IN GENERAL.**—Not later than 24 months after the date of enactment of this Act, the tribal council of each of the Yankton Sioux and Santee Sioux Tribes shall prepare a plan for the use of the payments to the tribe under section 204(d) or 205(d) (referred to in this subsection as a "tribal plan").

Deadline.

(b) **CONTENTS OF TRIBAL PLAN.**—Each tribal plan shall provide for the manner in which the tribe covered under the tribal plan shall expend payments to the tribe under section 204(d) or 205(d) to promote—

- (1) economic development;
- (2) infrastructure development;
- (3) the educational, health, recreational, and social welfare objectives of the tribe and its members; or
- (4) any combination of the activities described in paragraphs (1), (2), and (3).

(c) **TRIBAL PLAN REVIEW AND REVISION.**—



(1) **IN GENERAL.**—Each tribal council referred to in subsection (a) shall make available for review and comment by the members of the tribe a copy of the tribal plan for the Indian tribe before the tribal plan becomes final, in accordance with procedures established by the tribal council.

(2) **UPDATING OF TRIBAL PLAN.**—Each tribal council referred to in subsection (a) may, on an annual basis, revise the tribal plan prepared by that tribal council to update the tribal plan. In revising the tribal plan under this paragraph, the tribal council shall provide the members of the tribe opportunity to review and comment on any proposed revision to the tribal plan.

(3) **CONSULTATION.**—In preparing the tribal plan and any revisions to update the plan, each tribal council shall consult with the Secretary of the Interior and the Secretary of Health and Human Services.

(4) **ANNUAL REPORTS.**—Each tribe shall submit an annual report to the Secretary describing any expenditures of funds withdrawn by that tribe under this title.

(d) **PROHIBITION ON PER CAPITA PAYMENTS.**—No portion of any payment made under this title may be distributed to any member of the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska on a per capita basis.

#### **SEC. 207. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.**

(a) **IN GENERAL.**—No payment made to the Yankton Sioux Tribe or Santee Sioux Tribe pursuant to this title shall result in the reduction or denial of any service or program to which, pursuant to Federal law—

(1) the Yankton Sioux Tribe or Santee Sioux Tribe is otherwise entitled because of the status of the tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of a tribe under paragraph (1) is entitled because of the status of the individual as a member of the tribe.

(b) **EXEMPTIONS FROM TAXATION.**—No payment made pursuant to this title shall be subject to any Federal or State income tax.

(c) **POWER RATES.**—No payment made pursuant to this title shall affect Pick-Sloan Missouri River Basin power rates.

#### **SEC. 208. STATUTORY CONSTRUCTION.**

Nothing in this title may be construed as diminishing or affecting any water right of an Indian tribe, except as specifically provided in another provision of this title, any treaty right that is in effect on the date of enactment of this Act, or any authority of the Secretary of the Interior or the head of any other Federal agency under a law in effect on the date of enactment of this Act.

#### **SEC. 209. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this title, including such sums as may be necessary for the administration of the Yankton Sioux Tribe Development Trust Fund under section 204 and the Santee Sioux Tribe Development Trust Fund under section 205.

**SEC. 210. EXTINGUISHMENT OF CLAIMS.**

Upon the deposit of funds under sections 204(b) and 205(b), all monetary claims that the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska has or may have against the United States for loss of value or use of land related to lands described in section 202(a)(10) resulting from the Fort Randall and Gavins Point projects of the Pick-Sloan Missouri River Basin program shall be extinguished.

## **TITLE III—OKLAHOMA NATIVE AMERICAN CULTURAL CENTER AND MUSEUM**

**SEC. 301. OKLAHOMA NATIVE AMERICAN CULTURAL CENTER AND MUSEUM.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) In order to promote better understanding between Indian and non-Indian citizens of the United States, and in light of the Federal Government's continuing trust responsibilities to Indian tribes, it is appropriate, desirable, and a proper function of the Federal Government to provide grants for the development of a museum designated to display the heritage and culture of Indian tribes.

(2) In recognition of the unique status and history of Indian tribes in the State of Oklahoma and the role of the Federal Government in such history, it is appropriate and proper for the museum referred to in paragraph (1) to be located in the State of Oklahoma.

(b) **GRANT.**—

(1) **IN GENERAL.**—The Secretary shall offer to award financial assistance equaling not more than \$33,000,000 and technical assistance to the Authority to be used for the development and construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma.

(2) **AGREEMENT.**—To be eligible to receive a grant under paragraph (1), the appropriate official of the Authority shall—

(A) enter into a grant agreement with the Secretary which shall specify the duties of the Authority under this section, including provisions for continual maintenance of the Center by the Authority without the use of Federal funds; and

(B) demonstrate, to the satisfaction of the Secretary, that the Authority has raised, or has commitments from private persons or State or local government agencies for, an amount that is equal to not less than 66 percent of the cost to the Authority of the activities to be carried out under the grant.

(3) **LIMITATION.**—The amount of any grant awarded under paragraph (1) shall not exceed 33 percent of the cost of the activities to be funded under the grant.

(4) **IN-KIND CONTRIBUTION.**—When calculating the cost share of the Authority under this title, the Secretary shall reduce such cost share obligation by the fair market value of the approximately 300 acres of land donated by Oklahoma City for the Center, if such land is used for the Center.

(c) DEFINITIONS.—For the purposes of this title:

(1) AUTHORITY.—The term “Authority” means the Native American Cultural and Educational Authority of Oklahoma, an agency of the State of Oklahoma.

(2) CENTER.—The term “Center” means the Native American Cultural Center and Museum authorized pursuant to this section.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to grant assistance under subsection (b)(1), \$8,250,000 for each of fiscal years 2003 through 2006.

## **TITLE IV—TRANSMISSION OF POWER FROM INDIAN LANDS IN OKLAHOMA**

### **SEC. 401. TRANSMISSION OF POWER FROM INDIAN LANDS IN OKLAHOMA.**

To the extent the Southwestern Power Administration makes transmission capacity available without replacing the present capacity of existing users of the Administration's transmission system, the Administrator of the Southwestern Power Administration shall take such actions as may be necessary, in accordance with all applicable Federal law, to make the transmission services of the Administration available for the transmission of electric power generated at facilities located on land within the jurisdictional area of any Oklahoma Indian tribe (as determined by the Secretary of the Interior) recognized by the Secretary as eligible for trust land status under part 151 of title 25, Code of Federal Regulations. The owner or operator of the generation facilities concerned shall reimburse the Administrator for all costs of such actions in accordance with standards applicable to payment of such costs by other users of the Southwestern Power Administration transmission system.

## **TITLE V—PECHANGA TRIBE**

### **SEC. 501. LAND OF PECHANGA BAND OF LUISENO MISSION INDIANS.**

(a) LIMITATION ON CONVEYANCE.—Land described in subsection (b) (or any interest in that land) shall not be voluntarily or involuntarily transferred or otherwise made available for condemnation until the date on which—

(1)(A) the Secretary of the Interior renders a final decision on the fee to trust application pending on the date of the enactment of this title concerning the land; and

(B) final decisions have been rendered regarding all appeals relating to that application decision; or

(2) the fee to trust application described in paragraph (1)(A) is withdrawn.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) is land located in Riverside County, California, that is held in fee by the Pechanga Band of Luiseno Mission Indians, as described in Document No. 211130 of the Office of the Recorder, Riverside County, California, and recorded on May 15, 2001.

(c) **RULE OF CONSTRUCTION.**—Nothing in this section designates, or shall be used to construe, any land described in subsection (b) (or any interest in that land) as an Indian reservation, Indian country, Indian land, or reservation land (as those terms are defined under any Federal law (including a regulation)) for any purpose under any Federal law.

## **TITLE VI—CHEROKEE, CHOCTAW, AND CHICKASAW NATIONS CLAIMS SETTLEMENT ACT**

Cherokee,  
Choctaw, and  
Chickasaw  
Nations Claims  
Settlement Act.

### **SEC. 601. SHORT TITLE.**

This title may be cited as the “Cherokee, Choctaw, and Chickasaw Nations Claims Settlement Act”.

25 USC 1779  
note.

### **SEC. 602. FINDINGS.**

25 USC 1779.

The Congress finds the following:

(1) It is the policy of the United States to promote tribal self-determination and economic self-sufficiency and to encourage the resolution of disputes over historical claims through mutually agreed-to settlements between Indian Nations and the United States.

(2) There are pending before the United States Court of Federal Claims certain lawsuits against the United States brought by the Cherokee, Choctaw, and Chickasaw Nations seeking monetary damages for the alleged use and mismanagement of tribal resources along the Arkansas River in eastern Oklahoma.

(3) The Cherokee Nation, a federally recognized Indian tribe with its present tribal headquarters south of Tahlequah, Oklahoma, having adopted its most recent constitution on June 26, 1976, and having entered into various treaties with the United States, including but not limited to the Treaty at Hopewell, executed on November 28, 1785 (7 Stat. 18), and the Treaty at Washington, D.C., executed on July 19, 1866 (14 Stat. 799), has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(4) The Choctaw Nation, a federally recognized Indian tribe with its present tribal headquarters in Durant, Oklahoma, having adopted its most recent constitution on July 9, 1983, and having entered into various treaties with the United States of America, including but not limited to the Treaty at Hopewell, executed on January 3, 1786 (7 Stat. 21), and the Treaty at Washington, D.C., executed on April 28, 1866 (7 Stat. 21), has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(5) The Chickasaw Nation, a federally recognized Indian tribe with its present tribal headquarters in Ada, Oklahoma, having adopted its most recent constitution on August 27, 1983, and having entered into various treaties with the United States of America, including but not limited to the Treaty at Hopewell, executed on January 10, 1786 (7 Stat. 24), and the Treaty at Washington, D.C., executed on April 28, 1866 (7 Stat. 21),

has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(6) In the first half of the 19th century, the Cherokee, Choctaw, and Chickasaw Nations were forcibly removed from their homelands in the southeastern United States to lands west of the Mississippi in the Indian Territory that were ceded to them by the United States. From the "Three Forks" area near present day Muskogee, Oklahoma, downstream to the point of confluence with the Canadian River, the Arkansas River flowed entirely within the territory of the Cherokee Nation. From that point of confluence downstream to the Arkansas territorial line, the Arkansas River formed the boundary between the Cherokee Nation on the left side of the thread of the river and the Choctaw and Chickasaw Nations on the right.

(7) Pursuant to the Act of April 30, 1906 (34 Stat. 137), tribal property not allotted to individuals or otherwise disposed of, including the bed and banks of the Arkansas River, passed to the United States in trust for the use and benefit of the respective Indian Nations in accordance with their respective interests therein.

(8) For more than 60 years after Oklahoma statehood, the Bureau of Indian Affairs believed that Oklahoma owned the Riverbed from the Arkansas State line to Three Forks, and therefore took no action to protect the Indian Nations' Riverbed resources such as oil, gas, and Drybed Lands suitable for grazing and agriculture.

(9) Third parties with property near the Arkansas River began to occupy the Indian Nations' Drybed Lands—lands that were under water at the time of statehood but that are now dry due to changes in the course of the river.

(10) In 1966, the Indian Nations sued the State of Oklahoma to recover their lands. In 1970, the Supreme Court of the United States decided in the case of *Choctaw Nation vs. Oklahoma* (396 U.S. 620), that the Indian Nations retained title to their respective portions of the Riverbed along the navigable reach of the river.

(11) In 1987, the Supreme Court of the United States in the case of *United States vs. Cherokee Nation* (480 U.S. 700) decided that the riverbed lands did not gain an exemption from the Federal Government's navigational servitude and that the Cherokee Nation had no right to compensation for damage to its interest by exercise of the Government's servitude.

(12) In 1989, the Indian Nations filed lawsuits against the United States in the United States Court of Federal Claims (Case Nos. 218-89L and 630-89L), seeking damages for the United States' use and mismanagement of tribal trust resources along the Arkansas River. Those actions are still pending.

(13) In 1997, the United States filed quiet title litigation against individuals occupying some of the Indian Nations' Drybed Lands. That action, filed in the United States District Court for the Eastern District of Oklahoma, was dismissed without prejudice on technical grounds.

(14) Much of the Indian Nations' Drybed Lands have been occupied by a large number of adjacent landowners in Oklahoma. Without Federal legislation, further litigation against

thousands of such landowners would be likely and any final resolution of disputes would take many years and entail great expense to the United States, the Indian Nations, and the individuals and entities occupying the Drybed Lands and would seriously impair long-term economic planning and development for all parties.

(15) The Councils of the Cherokee and Choctaw Nations and the Legislature of the Chickasaw Nation have each enacted tribal resolutions which would, contingent upon the passage of this title and the satisfaction of its terms and in exchange for the moneys appropriated hereunder—

(A) settle and forever release their respective claims against the United States asserted by them in United States Court of Federal Claims Case Nos. 218-89L and 630-89L; and

(B) forever disclaim any and all right, title, and interest in and to the Disclaimed Drybed Lands, as set forth in those enactments of the respective councils of the Indian Nations.

(16) The resolutions adopted by the respective Councils of the Cherokee, Choctaw, and Chickasaw Nations each provide that, contingent upon the passage of the settlement legislation and satisfaction of its terms, each Indian Nation agrees to dismiss, release, and forever discharge its claims asserted against the United States in the United States Court of Federal Claims, Case Nos. 218-89L and 630-89L, and to forever disclaim any right, title, or interest of the Indian Nation in the Disclaimed Drybed Lands, in exchange for the funds appropriated and allocated to the Indian Nation under the provisions of the settlement legislation, which funds the Indian Nation agrees to accept in full satisfaction and settlement of all claims against the United States for the damages sought in the aforementioned claims asserted in the United States Court of Federal Claims, and as full and fair compensation for disclaiming its right, title, and interest in the Disclaimed Drybed Lands.

(17) In those resolutions, each Indian Nation expressly reserved all of its beneficial interest and title to all other Riverbed lands, including minerals, as determined by the Supreme Court in *Choctaw Nation v. Oklahoma*, 397 U.S. 620 (1970), and further reserved any and all right, title, or interest that each Nation may have in and to the water flowing in the Arkansas River and its tributaries.

#### SEC. 603. PURPOSES.

25 USC 1779a.

The purposes of this title are to resolve all claims that have been or could have been brought by the Cherokee, Choctaw, and Chickasaw Nations against the United States, and to confirm that the Indian Nations are forever disclaiming any right, title, or interest in the Disclaimed Drybed Lands, which are contiguous to the channel of the Arkansas River as of the date of the enactment of this title in certain townships in eastern Oklahoma.

#### SEC. 604. DEFINITIONS.

25 USC 1779b.

For the purposes of this title, the following definitions apply:

(1) **DISCLAIMED DRYBED LANDS.**—The term “Disclaimed Drybed Lands” means all Drybed Lands along the Arkansas River that are located in Township 10 North in Range 24 East, Townships 9 and 10 North in Range 25 East, Township



10 North in Range 26 East, and Townships 10 and 11 North in Range 27 East, in the State of Oklahoma.

(2) **DRYBED LANDS.**—The term “Drybed Lands” means those lands which, on the date of enactment of this title, lie above and contiguous to the mean high water mark of the Arkansas River in the State of Oklahoma. The term “Drybed Lands” is intended to have the same meaning as the term “Upland Claim Area” as used by the Bureau of Land Management Cadastral Survey Geographic Team in its preliminary survey of the Arkansas River. The term “Drybed Lands” includes any lands so identified in the “Holway study.”

(3) **INDIAN NATION; INDIAN NATIONS.**—The term “Indian Nation” means the Cherokee Nation, Choctaw Nation, or Chickasaw Nation, and the term “Indian Nations” means all 3 tribes collectively.

(4) **RIVERBED.**—The term “Riverbed” means the Drybed Lands and the Wetbed Lands and includes all minerals therein.

(5) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(6) **WETBED LANDS.**—The term “Wetbed Lands” means those Riverbed lands which lie below the mean high water mark of the Arkansas River in the State of Oklahoma as of the date of the enactment of this title, exclusive of the Drybed Lands. The term “Wetbed Lands” is intended to have the same meaning as the term “Present Channel Claim Areas” as utilized by the Bureau of Land Management Cadastral Survey Geographic Team in its preliminary survey of the Arkansas River.

25 USC 1779c.

**SEC. 605. SETTLEMENT AND CLAIMS; APPROPRIATIONS; ALLOCATION OF FUNDS.**

(a) **EXTINGUISHMENT OF CLAIMS.**—Pursuant to their respective tribal resolutions, and in exchange for the benefits conferred under this title, the Indian Nations shall, on the date of enactment of this title, enter into a consent decree with the United States that waives, releases, and dismisses all the claims they have asserted or could have asserted in their cases numbered 218–89L and 630–89L pending in the United States Court of Federal Claims against the United States, including but not limited to claims arising out of any and all of the Indian Nations’ interests in the Disclaimed Drybed Lands and arising out of construction, maintenance and operation of the McClellan-Kerr Navigation Way. The Indian Nations and the United States shall lodge the consent decree with the Court of Federal Claims within 30 days of the enactment of this title, and shall move for entry of the consent decree at such time as all appropriations by Congress pursuant to the authority of this title have been made and deposited into the appropriate tribal trust fund account of the Indian Nations as described in section 606. Upon entry of the consent decree, all the Indian Nations’ claims and all their past, present, and future right, title, and interest to the Disclaimed Drybed Lands, shall be deemed extinguished. No claims may be asserted in the future against the United States pursuant to sections 1491, 1346(a)(2), or 1505 of title 28, United States Code, for actions taken or failed to have been taken by the United States for events occurring prior to the date of the extinguishment of claims with respect to the Riverbed.

(b) RELEASE OF TRIBAL CLAIMS TO CERTAIN DRYBED LANDS.—

(1) IN GENERAL.—Upon the deposit of all funds authorized for appropriation under subsection (c) for an Indian Nation into the appropriate trust fund account described in section 606—

(A) all claims now existing or which may arise in the future with respect to the Disclaimed Drybed Lands and all right, title, and interest that the Indian Nations and the United States as trustee on behalf of the Indian Nation may have to the Disclaimed Drybed Lands, shall be deemed extinguished;

(B) any interest of the Indian Nations or the United States as trustee on their behalf in the Disclaimed Drybed Lands shall further be extinguished pursuant to the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, 1 Stat. 137), and all subsequent amendments thereto (as codified at 25 U.S.C. 177);

(C) to the extent parties other than the Indian Nations have transferred interests in the Disclaimed Drybed Lands in violation of the Trade and Intercourse Act, Congress does hereby approve and ratify such transfers of interests in the Disclaimed Drybed Lands to the extent that such transfers otherwise are valid under law; and

(D) the Secretary is authorized to execute an appropriate document citing this title, suitable for filing with the county clerks, or such other county official as appropriate, of those counties wherein the foregoing described lands are located, disclaiming any tribal or Federal interest on behalf of the Indian Nations in such Disclaimed Drybed Lands. The Secretary is authorized to file with the counties a plat or map of the disclaimed lands should the Secretary determine that such filing will clarify the extent of lands disclaimed. Such a plat or map may be filed regardless of whether the map or plat has been previously approved for filing, whether or not the map or plat has been filed, and regardless of whether the map or plat constitutes a final determination by the Secretary of the extent of the Indian Nations' original claim to the Disclaimed Drybed Lands. The disclaimer filed by the United States shall constitute a disclaimer of the Disclaimed Drybed Lands for purposes of the Trade and Intercourse Act (25 U.S.C. 177).

(2) SPECIAL PROVISIONS.—Notwithstanding any provision of this title—

(A) the Indian Nations do not relinquish any right, title, or interest in any lands which constitute the Wetbed Lands subject to the navigational servitude exercised by the United States on the Wetbed Lands. By virtue of the exercise of the navigational servitude, the United States shall not be liable to the Indian Nations for any loss they may have related to the minerals in the Wetbed Lands;

(B) no provision of this title shall be construed to extinguish or convey any water rights of the Indian Nations in the Arkansas River or any other stream or the beneficial interests or title of any of the Indian Nations in and to lands held in trust by the United States on the date of

enactment of this title which lie above or below the mean high water mark of the Arkansas River, except for the Disclaimed Drybed Lands; and

(C) the Indian Nations do not relinquish any right, title, or interest in any lands or minerals of certain unallotted tracts which are identified in the official records of the Eastern Oklahoma Regional Office, Bureau of Indian Affairs. The disclaimer to be filed by the Secretary of the Interior under section 605(b)(1) of this title shall reflect the legal description of the unallotted tracts retained by the Nations.

(3) SETOFF.—In the event the Court of Federal Claims does not enter the consent decree as set forth in subsection (a), the United States shall be entitled to setoff against any claims of the Indian Nations as set forth in subsection (a), any funds transferred to the Indian Nations pursuant to section 606, and any interest accrued thereon up to the date of setoff.

(4) QUIET TITLE ACTIONS.—Notwithstanding any other provision of law, neither the United States nor any department of the United States nor the Indian Nations shall be made parties to any quiet title lawsuit or other lawsuit to determine ownership of or an interest in the Disclaimed Drybed Lands initiated by any private person or private entity after execution of the disclaimer set out in section 605(b)(1). The United States will have no obligation to undertake any future quiet title actions or actions for the recovery of lands or funds relating to any Drybed Lands retained by the Indian Nation or Indian Nations under this title, including any lands which are Wetbed Lands on the date of enactment of this title, but which subsequently lie above the mean high water mark of the Arkansas River and the failure or declination to initiate any quiet title action or to manage any such Drybed Lands shall not constitute a breach of trust by the United States or be compensable to the Indian Nation or Indian Nations in any manner.

(5) LAND TO BE CONVEYED IN FEE.—To the extent that the United States determines that it is able to effectively maintain the McClellan-Kerr Navigation Way without retaining title to lands above the high water mark of the Arkansas River as of the date of enactment of this title, said lands, after being declared surplus, shall be conveyed in fee to the Indian Nation within whose boundary the land is located. The United States shall not be obligated to accept such property in trust.

(c) AUTHORIZATION FOR SETTLEMENT APPROPRIATIONS.—There is authorized to be appropriated an aggregate sum of \$40,000,000 as follows:

- (1) \$10,000,000 for fiscal year 2004.
- (2) \$10,000,000 for fiscal year 2005.
- (3) \$10,000,000 for fiscal year 2006.
- (4) \$10,000,000 for fiscal year 2007.

(d) ALLOCATION AND DEPOSIT OF FUNDS.—After payment pursuant to section 607, the remaining funds authorized for appropriation under subsection (c) shall be allocated among the Indian Nations as follows:

- (1) 50 percent to be deposited into the trust fund account established under section 606 for the Cherokee Nation.
- (2) 37.5 percent to be deposited into the trust fund account established under section 606 for the Choctaw Nation.

(3) 12.5 percent to be deposited into the trust fund account established under section 606 for the Chickasaw Nation.

**SEC. 606. TRIBAL TRUST FUNDS.**

25 USC 1779d.

**(a) ESTABLISHMENT, PURPOSE, AND MANAGEMENT OF TRUST FUNDS.—**

(1) **ESTABLISHMENT.**—There are hereby established in the United States Treasury 3 separate tribal trust fund accounts for the benefit of each of the Indian Nations, respectively, for the purpose of receiving all appropriations made pursuant to section 605(c), and allocated pursuant to section 605(d).

(2) **AVAILABILITY OF AMOUNTS IN TRUST FUND ACCOUNTS.**—Amounts in the tribal trust fund accounts established by this section shall be available to the Secretary for management and investment on behalf of the Indian Nations and distribution to the Indian Nations in accordance with this title. Funds made available from the tribal trust funds under this section shall be available without fiscal year limitation.

**(b) MANAGEMENT OF FUNDS.—**

**(1) LAND ACQUISITION.—**

(A) **TRUST LAND STATUS PURSUANT TO REGULATIONS.**—The funds appropriated and allocated to the Indian Nations pursuant to sections 205 (c) and (d), and deposited into trust fund accounts pursuant to section 606(a), together with any interest earned thereon, may be used for the acquisition of land by the Indian Nations. The Secretary may accept such lands into trust for the beneficiary Indian Nation pursuant to the authority provided in section 5 of the Act of June 18, 1934 (25 U.S.C. 465) and in accordance with the Secretary's trust land acquisition regulations at part 151 of title 25, Code of Federal Regulations, in effect at the time of the acquisition, except for those acquisitions covered by paragraph (1)(B).

(B) **REQUIRED TRUST LAND STATUS.**—Any such trust land acquisitions on behalf of the Cherokee Nation shall be mandatory if the land proposed to be acquired is located within Township 12 North, Range 21 East, in Sequoyah County, Township 11 North, Range 18 East, in McIntosh County, Townships 11 and 12 North, Range 19 East, or Township 12 North, Range 20 East, in Muskogee County, Oklahoma, and not within the limits of any incorporated municipality as of January 1, 2002, if—

(i) the land proposed to be acquired meets the Department of the Interior's minimum environmental standards and requirements for real estate acquisitions set forth in 602 DM 2.6, or any similar successor standards or requirements for real estate acquisitions in effect on the date of acquisition; and

(ii) the title to such land meets applicable Federal title standards in effect on the date of the acquisition.

(C) **OTHER EXPENDITURE OF FUNDS.**—The Indian Nations may elect to expend all or a portion of the funds deposited into its trust account for any other purposes authorized under paragraph (2).

**(2) INVESTMENT OF TRUST FUNDS; NO PER CAPITA PAYMENT.—**

(A) NO PER CAPITA PAYMENTS.—No money received by the Indian Nations hereunder may be used for any per capita payment.

(B) INVESTMENT BY SECRETARY.—Except as provided in this section and section 607, the principal of such funds deposited into the accounts established hereunder and any interest earned thereon shall be invested by the Secretary in accordance with current laws and regulations for the investing of tribal trust funds.

(C) USE OF PRINCIPAL FUNDS.—The principal amounts of said funds and any amounts earned thereon shall be made available to the Indian Nation for which the account was established for expenditure for purposes which may include construction or repair of health care facilities, law enforcement, cultural or other educational activities, economic development, social services, and land acquisition. Land acquisition using such funds shall be subject to the provisions of subsections (b) and (d).

(3) DISBURSEMENT OF FUNDS.—The Secretary shall disburse the funds from a trust account established under this section pursuant to a budget adopted by the Council or Legislature of the Indian Nation setting forth the amount and an intended use of such funds.

(4) ADDITIONAL RESTRICTION ON USE OF FUNDS.—None of the funds made available under this title may be allocated or otherwise assigned to authorized purposes of the Arkansas River Multipurpose Project as authorized by the River and Harbor Act of 1946, as amended by the Flood Control Act of 1948 and the Flood Control Act of 1950.

25 USC 1779e.

**SEC. 607. ATTORNEY FEES.**

(a) PAYMENT.—At the time the funds are paid to the Indian Nations, from funds authorized to be appropriated pursuant to section 605(c), the Secretary shall pay to the Indian Nations' attorneys those fees provided for in the individual tribal attorney fee contracts as approved by the respective Indian Nations.

(b) LIMITATIONS.—Notwithstanding subsection (a), the total fees payable to attorneys under such contracts with an Indian Nation shall not exceed 10 percent of that Indian Nation's allocation of funds appropriated under section 605(c).

25 USC 1779f.

**SEC. 608. RELEASE OF OTHER TRIBAL CLAIMS AND FILING OF CLAIMS.**

(a) EXTINGUISHMENT OF OTHER TRIBAL CLAIMS.—

(1) IN GENERAL.—As of the date of enactment of this title—

(A) all right, title, and interest of any Indian nation or tribe other than any Indian Nation defined in section 604 (referred to in this section and section 609 as a "claimant tribe") in or to the Disclaimed Drybed Lands, and any such right, title, or interest held by the United States on behalf of such a claimant tribe, shall be considered to be extinguished in accordance with section 177 of title 25, United States Code (section 2116 of the Revised Statutes);

(B) if any party other than a claimant tribe holds transferred interests in or to the Disclaimed Drybed Lands in violation of section 177 of title 25, United States Code (section 2116 of the Revised Statutes), Congress approves and ratifies those transfers of interests to the extent that

the transfers are in accordance with other applicable law; and

(C) the documents described in section 605(b)(1)(D) shall serve to identify the geographic scope of the interests extinguished by subparagraph (A).

(2) QUIET TITLE ACTIONS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, after the date of enactment of this title, neither the United States (or any department or agency of the United States) nor any Indian Nation shall be included as a party to any civil action brought by any private person or private entity to quiet title to, or determine ownership of an interest in or to, the Disclaimed Drybed Lands.

(B) FUTURE ACTIONS.—As of the date of enactment of this title, the United States shall have no obligation to bring any civil action to quiet title to, or to recover any land or funds relating to, the Drybed Lands (including any lands that are Wetbed Lands as of the date of enactment of this title but that are located at any time after that date above the mean high water mark of the Arkansas River).

(C) NO BREACH OF TRUST.—The failure or declination by the United States to initiate any civil action to quiet title to or manage any Drybed Lands under this paragraph shall not—

(i) constitute a breach of trust by the United States; or

(ii) be compensable to a claimant tribe in any manner.

(b) CLAIMS OF OTHER INDIAN TRIBES.—

(1) LIMITED PERIOD FOR FILING CLAIMS.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this title, any claimant tribe that claims that any title, interest, or entitlement held by the claimant tribe has been extinguished by operation of section 605(a) or section 608(a) may file a claim against the United States relating to the extinguishment in the United States Court of Federal Claims.

Deadline.

(B) FAILURE TO FILE.—After the date described in subparagraph (A), a claimant tribe described in that subparagraph shall be barred from filing any claim described in that subparagraph.

(2) SPECIAL HOLDING ACCOUNT.—

(A) ESTABLISHMENT.—There is established in the Treasury, in addition to the accounts established by section 606(a), an interest-bearing special holding account for the benefit of the Indian Nations.

(B) DEPOSITS.—Notwithstanding any other provision of this title or any other law, of any funds that would otherwise be deposited in a tribal trust account established by section 606(a), 10 percent shall—

(i) be deposited in the special holding account established by subparagraph (A); and

(ii) be held in that account for distribution under paragraph (3).

(3) DISTRIBUTION OF FUNDS.—



(A) IN GENERAL.—Funds deposited in the special holding account established by paragraph (2)(A) shall be distributed in accordance with subparagraphs (B) through (D).

(B) CLAIM FILED.—If a claim under paragraph (1)(A) is filed by the deadline specified in that paragraph, on final adjudication of that claim—

(i) if the final judgment awards to a claimant an amount that does not exceed the amount of funds in the special holding account under paragraph (2) attributable to the Indian Nation from the allocation of which under section 605(d) the funds in the special holding account are derived—

(I) that amount shall be distributed from the special holding account to the claimant tribe that filed the claim; and

(II) any remaining amount in the special holding account attributable to the claim shall be transferred to the appropriate tribal trust account for the Indian Nation established by section 606(a); and

(ii) if the final judgment awards to a claimant an amount that exceeds the amount of funds in the special holding account attributable to the Indian Nation from the allocation of which under section 605(d) the funds in the special holding account are derived—

(I) the balance of funds in the special holding account attributable to the Indian Nation shall be distributed to the claimant tribe that filed the claim; and

(II) payment of the remainder of the judgment amount awarded to the claimant tribe shall be made from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code.

(C) NO CLAIMS FILED.—If no claims under paragraph (1)(A) are filed by the deadline specified in that paragraph—

(i) any funds held in the special holding account under paragraph (2) and attributed to that Indian Nation shall be deposited in the appropriate tribal trust account established by section 6(a); and

(ii) after the date that is 180 days after the date of enactment of this title, paragraph (2)(B) shall not apply to appropriations attributed to that Indian Nation.

(c) DECLARATION WITH RESPECT TO SCOPE OF RIGHTS, TITLE, AND INTERESTS.—Congress declares that—

(1) subsection (b) is intended only to establish a process by which alleged claims may be resolved; and

(2) nothing in this section acknowledges, enhances, or establishes any prior right, title, or interest of any claimant tribe in or to the Arkansas Riverbed.

**SEC. 609. EFFECT ON CLAIMS.**

25 USC 1779g.

This title shall not be construed to resolve any right, title, or interest of any Indian nation or of any claimant tribe, except their past, present, or future claims relating to right, title, or interest in or to the Riverbed and the obligations and liabilities of the United States thereto.

**TITLE VII—SEMINOLE TRIBE****SEC. 701. APPROVAL NOT REQUIRED TO VALIDATE CERTAIN LAND TRANSACTIONS.**

(a) **TRANSACTIONS.**—The Seminole Tribe of Florida may mortgage, lease, sell, convey, warrant, or otherwise transfer all or any part of any interest in any real property that—

(1) was held by the Tribe on September 1, 2002; and

(2) is not held in trust by the United States for the benefit of the Tribe.

(b) **NO FURTHER APPROVAL REQUIRED.**—Transactions under subsection (a) shall be valid without further approval, ratification, or authorization by the United States.

(c) **TRUST LAND NOT AFFECTED.**—Nothing in this section is intended or shall be construed to—

(1) authorize the Seminole Tribe of Florida to mortgage, lease, sell, convey, warrant, or otherwise transfer all or any part of an interest in any real property that is held in trust by the United States for the benefit of the Tribe; or

(2) affect the operation of any law governing mortgaging, leasing, selling, conveying, warranting, or otherwise transferring any interest in such trust land.

**TITLE VIII—JICARILLA APACHE  
RESERVATION RURAL WATER SYSTEM**

Jicarilla Apache  
Reservation  
Rural Water  
System Act.  
New Mexico.

**SEC. 801. SHORT TITLE.**

This title may be cited as the “Jicarilla Apache Reservation Rural Water System Act”.

**SEC. 802. PURPOSES.**

The purposes of this title are as follows:

(1) To ensure a safe and adequate rural, municipal, and water supply and wastewater systems for the residents of the Jicarilla Apache Reservation in the State of New Mexico in accordance with Public Law 106-243.

(2) To authorize the Secretary of the Interior, through the Bureau of Reclamation, in consultation and collaboration with the Jicarilla Apache Nation—

(A) to plan, design, and construct the water supply, delivery, and wastewater collection systems on the Jicarilla Apache Reservation in the State of New Mexico; and

(B) to include service connections to facilities within the town of Dulce and the surrounding area, and to individuals as part of the construction.

(3) To require the Secretary, at the request of the Jicarilla Apache Nation, to enter into a self-determination contract with the Jicarilla Apache Nation under title I of the Indian Self-

Determination and Education Assistance Act (25 U.S.C. 450f et seq.) under which—

(A) the Jicarilla Apache Nation shall plan, design, and construct the water supply, delivery, and wastewater collection systems, including service connections to communities and individuals; and

(B) the Bureau of Reclamation shall provide technical assistance and oversight responsibility for such project.

(4) To establish a process in which the Jicarilla Apache Nation shall assume title and responsibility for the ownership, operation, maintenance, and replacement of the system.

#### **SEC. 803. DEFINITIONS.**

As used in this title:

(1) **BIA.**—The term “BIA” means the Bureau of Indian Affairs, an agency within the Department of the Interior.

(2) **IRRIGATION.**—The term “irrigation” means the commercial application of water to land for the purpose of establishing or maintaining commercial agriculture in order to produce field crops and vegetables for sale.

(3) **RECLAMATION.**—The term “Reclamation” means the Bureau of Reclamation, an agency within the Department of the Interior.

(4) **REPORT.**—The term “Report” means the report entitled “Planning Report/Environmental Assessment, Water and Wastewater Improvements, Jicarilla Apache Nation, Dulce, New Mexico”, dated September 2001, which was completed pursuant to Public Law 106-243.

(5) **RESERVATION.**—The term “Reservation” means the Jicarilla Apache Reservation in the State of New Mexico, including all lands and interests in land that are held in trust by the United States for the Tribe.

(6) **RURAL WATER SUPPLY PROJECT.**—The term “Rural Water Supply Project” means a municipal, domestic, rural, and industrial water supply and wastewater facility area and project identified to serve a group of towns, communities, cities, tribal reservations, or dispersed farmsteads with access to clean, safe domestic and industrial water, to include the use of livestock.

(7) **STATE.**—The term “State” means the State of New Mexico.

(8) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior, acting through the Bureau of Reclamation.

(9) **TRIBE.**—The term “Tribe” means the Jicarilla Apache Nation.

#### **SEC. 804. JICARILLA APACHE RESERVATION RURAL WATER SYSTEM.**

(a) **CONSTRUCTION.**—The Secretary, in consultation and collaboration with the Tribe, shall plan, design, and construct the Rural Water Supply Project to improve the water supply, delivery, and wastewater facilities to the town of Dulce, New Mexico, and surrounding communities for the purpose of providing the benefits of clean, safe, and reliable water supply, delivery, and wastewater facilities.

(b) **SCOPE OF PROJECT.**—The Rural Water Supply Project shall consist of the following:

(1) Facilities to provide water supply, delivery, and wastewater services for the community of Dulce, the Mundo Ranch Development, and surrounding areas on the Reservation.

(2) Pumping and treatment facilities located on the Reservation.

(3) Distribution, collection, and treatment facilities to serve the needs of the Reservation, including, but not limited to, construction, replacement, improvement, and repair of existing water and wastewater systems, including systems owned by individual tribal members and other residents on the Reservation.

(4) Appurtenant buildings and access roads.

(5) Necessary property and property rights.

(6) Such other electrical power transmission and distribution facilities, pipelines, pumping plants, and facilities as the Secretary deems necessary or appropriate to meet the water supply, economic, public health, and environmental needs of the Reservation, including, but not limited to, water storage tanks, water lines, maintenance equipment, and other facilities for the Tribe on the Reservation.

(c) COST SHARING.—

(1) TRIBAL SHARE.—Subject to paragraph (3) and subsection (d), the tribal share of the cost of the Rural Water Supply Project is comprised of the costs to design and initiate construction of the wastewater treatment plant, to replace the diversion structure on the Navajo River, and to construct raw water settling ponds, a water treatment plant, water storage plants, a water transmission pipeline, and distribution pipelines, and has been satisfied.

(2) FEDERAL SHARE.—Subject to paragraph (3) and subsection (d), the Federal share of the cost of the Rural Water Supply Project shall be all remaining costs of the project identified in the Report.

(3) OPERATION AND MAINTENANCE.—The Federal share of the cost of operation and maintenance of the Rural Water Supply Project shall continue to be available for operation and maintenance in accordance with the Indian Self-Determination Act, as set forth in this title.

(d) OPERATION, MAINTENANCE, AND REPLACEMENT AFTER COMPLETION.—Upon determination by the Secretary that the Rural Water Supply Project is substantially complete, the Tribe shall assume responsibility for and liability related to the annual operation, maintenance, and replacement cost of the project in accordance with this title and the Operation, Maintenance, and Replacement Plan under chapter IV of the Report.

#### SEC. 805. GENERAL AUTHORITY.

The Secretary is authorized to enter into contracts, grants, cooperative agreements, and other such agreements and to promulgate such regulations as may be necessary to carry out the purposes and provisions of this title and the Indian Self-Determination Act (Public Law 93-638; 25 U.S.C. 450 et seq.).

#### SEC. 806. PROJECT REQUIREMENTS.

(a) PLANS.—

(1) PROJECT PLAN.—Not later than 60 days after funds are made available for this purpose, the Secretary shall prepare a recommended project plan, which shall include a general map showing the location of the proposed physical facilities, conceptual engineering drawings of structures, and general standards for design for the Rural Water Supply Project.

Deadline.

(2) OM&R PLAN.—The Tribe shall develop an operation, maintenance, and replacement plan, which shall provide the necessary framework to assist the Tribe in establishing rates and fees for customers of the Rural Water Supply Project.

(b) CONSTRUCTION MANAGER.—The Secretary, through Reclamation and in consultation with the Tribe, shall select a project construction manager to work with the Tribe in the planning, design, and construction of the Rural Water Supply Project.

(c) MEMORANDUM OF AGREEMENT.—The Secretary shall enter into a memorandum of agreement with the Tribe that commits Reclamation and BIA to a transition plan that addresses operations and maintenance of the Rural Water Supply Project while the facilities are under construction and after completion of construction.

(d) OVERSIGHT.—The Secretary shall have oversight responsibility with the Tribe and its constructing entity and shall incorporate value engineering analysis as appropriate to the Rural Water Supply Project.

(e) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical assistance as may be necessary to the Tribe to plan, develop, and construct the Rural Water Supply Project, including, but not limited to, operation and management training.

(f) SERVICE AREA.—The service area of the Rural Water Supply Project shall be within the boundaries of the Reservation.

(g) OTHER LAW.—The planning, design, construction, operation, and maintenance of the Rural Water Supply Project shall be subject to the provisions of the Indian Self-Determination Act (25 U.S.C. 450 et seq.).

(h) REPORT.—During the year that construction of the Rural Water Supply Project begins and annually until such construction is completed, the Secretary, through Reclamation and in consultation with the Tribe, shall report to Congress on the status of the planning, design, and construction of the Rural Water Supply Project.

(i) TITLE.—Title to the Rural Water Supply Project shall be held in trust for the Tribe by the United States and shall not be transferred or encumbered without a subsequent Act of Congress.

#### SEC. 807. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title \$45,000,000 (January 2002 dollars) plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved for the planning, design, and construction of the Rural Water Supply Project as generally described in the Report dated September 2001.

(b) CONDITIONS.—Funds may not be appropriated for the construction of any project authorized under this title until after—

(1) an appraisal investigation and a feasibility study have been completed by the Secretary and the Tribe; and

(2) the Secretary has determined that the plan required by section 806(a)(2) is completed.

(c) NEPA.—The Secretary shall not obligate funds for construction until after the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the Rural Water Supply Project.

**SEC. 808. PROHIBITION ON USE OF FUNDS FOR IRRIGATION PURPOSES.**

None of the funds made available to the Secretary for planning or construction of the Rural Water Supply Project may be used to plan or construct facilities used to supply water for the purposes of irrigation.

**SEC. 809. WATER RIGHTS.**

The water rights of the Tribe are part of and included in the Jicarilla Apache Tribe Water Rights Settlement Act (Public Law 102-441). These rights are adjudicated under New Mexico State law as a partial final judgment and decree entered in the Eleventh Judicial District Court of New Mexico. That Act and decree provide for sufficient water rights under "historic and existing uses" to supply water for the municipal water system. These water rights are recognized depletions within the San Juan River basin and no new depletions are associated with the Rural Water Supply Project. In consultation with the United States Fish and Wildlife Service, Reclamation has determined that there shall be no significant impact to endangered species as a result of water depletions associated with this project. No other water rights of the Tribe shall be impacted by the Rural Water Supply Project.

## **TITLE IX—ROCKY BOY'S RURAL WATER SYSTEM**

Rocky Boy's/  
North Central  
Montana  
Regional Water  
System Act of  
2002.

**SEC. 901. SHORT TITLE.**

This title may be cited as the "Rocky Boy's/North Central Montana Regional Water System Act of 2002".

**SEC. 902. FINDINGS AND PURPOSES.**

(a) **FINDINGS.**—Congress finds that—

(1) the water systems serving residents of the Rocky Boy's Reservation in the State of Montana—

(A) do not meet minimum health and safety standards;

(B) pose a threat to public health and safety; and

(C) are inadequate to supply the water needs of the Chippewa Cree Tribe;

(2) the United States has a responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs of the Reservation;

(3) the entities administering the rural and municipal water systems in North Central Montana are having difficulty complying with regulations promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(4) the study, defined in section 903(k), identifies Lake Elwell, near Chester, Montana, as an available, reliable, and safe rural and municipal water supply for serving the needs of the Reservation and North Central Montana.

(b) **PURPOSES.**—The purposes of this title are—

(1) to ensure a safe and adequate rural, municipal, and industrial water supply for the residents of the Rocky Boy's Reservation in the State of Montana;

(2) to assist the citizens residing in Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana,



but outside the Reservation, in developing safe and adequate rural, municipal, and industrial water supplies;

(3) to authorize the Secretary of the Interior—

(A) acting through the Commissioner of Reclamation to plan, design, and construct the core and noncore systems of the Rocky Boy's/North Central Montana Regional Water System in the State of Montana; and

(B) acting through the Bureau of Indian Affairs to operate, maintain, and replace the core system and the on-Reservation water distribution systems, including service connections to communities and individuals; and

(4) to authorize the Secretary, at the request of the Chippewa Cree Tribe, to enter into self-governance agreements with the Tribe under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.), under which the Tribe—

(A) through the Bureau of Reclamation, will plan, design, and construct the core system of the Rocky Boy's/North Central Montana Regional Water System, and

(B) through the Bureau of Indian Affairs, will operate, maintain, and replace (including service connections to communities and individuals) the core system and the on-Reservation water distribution systems.

#### SEC. 903. DEFINITIONS.

In this title:

(1) **AUTHORITY.**—The term “Authority” means the North Central Montana Regional Water Authority established under State law, Mont. Code Ann. Sec. 75-6-301, et. seq. (2001), to allow public agencies to join together to secure and provide water for resale.

(2) **CORE SYSTEM.**—The term “core system” means a component of the water system as described in section 904(d) and the final engineering report.

(3) **FINAL ENGINEERING REPORT.**—The term “final engineering report” means the final engineering report prepared for the Rocky Boy's/North Central Montana Regional Water System, as approved by the Secretary of the Interior.

(4) **FUND.**—The term “fund” means the Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund.

(5) **ON-RESERVATION WATER DISTRIBUTION SYSTEMS.**—The term “on-reservation water distribution systems” means that portion of the Rocky Boy's/North Central Montana Regional Water system served by the core system and within the boundaries of the Rocky Boy's Reservation. The on-reservation water distribution systems are described in section 904(f) and the final engineering report.

(6) **NONCORE SYSTEM.**—The term “noncore system” means the rural water system for Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, described in section 905(c) and the final engineering report.

(7) **RESERVATION.**—

(A) **IN GENERAL.**—The term “Reservation” means the Rocky Boy's Reservation in the State of Montana.

(B) **INCLUSIONS.**—The term “Reservation” includes all land and interests in land that are held in trust by the

United States for the Tribe at the time of the enactment of this title.

(8) **ROCKY BOY'S/NORTH CENTRAL MONTANA REGIONAL WATER SYSTEM.**—The term “Rocky Boy's/North Central Montana Regional Water System” means—

- (A) the core system;
- (B) the on-reservation water distribution systems; and
- (C) the non-core system.

(9) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(10) **STATE.**—The term “State” means the State of Montana.

(11) **STUDY.**—The term “study” means the study entitled “North Central Montana Regional Water System Planning/Environmental Report” dated May 2000.

(12) **TRIBE.**—The term “Tribe” means—

- (A) the Chippewa Cree Tribe of the Rocky Boy's Reservation; and
- (B) all officers, agents, and departments of the Tribe.

#### **SEC. 904. ROCKY BOY'S RURAL WATER SYSTEM.**

(a) **FINAL ENGINEERING REPORT.**—The following reports will serve as the basis for the final engineering report for the Rocky Boy's/North Central Montana Regional Water System—

(1) pursuant to Public Law 104-204, a study, described in section 903(k), that was conducted to study the water and related resources in North Central Montana and to evaluate alternatives for providing a municipal, rural and industrial supply of water to the citizens residing in Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, residing both on and off the Reservation; and

(2) pursuant to section 202 of Public Law 106-163, the Tribe has conducted, through a self-governance agreements with the Secretary of the Interior, acting through the Bureau of Reclamation, a feasibility study to evaluate alternatives for providing a municipal, rural and industrial supply of water to the Reservation.

The Secretary of the Interior may require, through the agreements described in subsection (g) and section 905(d), that the final engineering report include appropriate additional study and analyses.

(b) **CORE SYSTEM.**—

(1) **IN GENERAL.**—The Secretary is authorized to plan, design, construct, operate, maintain, and replace the core system.

(2) **FEDERAL SHARE.**—

(A) The Federal share of the cost of planning, design, and construction of the core system shall be—

- (i) 100 percent of the Tribal share of costs as identified in section 914;
- (ii) 80 percent of the authority's share of the total cost for the core system as identified in section 914; and
- (iii) funded through annual appropriations to the Bureau of Reclamation.

(3) **AGREEMENTS.**—Federal funds made available to carry out this subsection may be obligated and expended only in

accordance with the Agreements entered into under subsection (g).

(c) **Operation, Maintenance, and Replacement (OM&R) CORE SYSTEM.**—The cost of operation, maintenance, and replacement of the core system shall be allocated as follows—

(1) 100 percent of the Tribe's share of the OM&R costs, as negotiated in the Agreements, shall be funded through the Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund established in section 913;

(2) 100 percent of the Authority's share of the OM&R costs, as negotiated in the Cooperative Agreements, shall be funded by the Authority and fully reimbursable to the Secretary.

Federal funds made available to carry out this subsection may be obligated and expended only in accordance with the Agreements entered into under subsection (g) and section 905(d).

(d) **CORE SYSTEM COMPONENTS.**—As described in the final engineering report, the core system shall consist of—

(1) intake, pumping, water storage, and treatment facilities;

(2) transmission pipelines, pumping stations, and storage facilities;

(3) appurtenant buildings, maintenance equipment, and access roads;

(4) all property and property rights necessary for the facilities described in this subsection;

(5) all interconnection facilities at the core pipeline to the noncore system; and

(6) electrical power transmission and distribution facilities necessary for services to core system facilities.

(e) **AUTHORITY TO ACQUIRE PROPERTY.**—Where, in carrying out the provisions of this title for construction of the core system, it becomes necessary to acquire any rights or property, the Authority, acting pursuant to State law, Mont. Code Ann. Sec. 75-6-313 (2001), is hereby authorized to acquire the same by condemnation under judicial process, and to pay such sums which may be needed for that purpose. Nothing in this section shall apply to land held in trust by the United States.

(f) **ON-RESERVATION WATER DISTRIBUTION SYSTEMS.**—

(1) **IN GENERAL.**—The Secretary is authorized to operate, maintain, and replace the water distribution systems of the Reservation.

(2) **OPERATION, MAINTENANCE, AND REPLACEMENT.**—The cost of operation, maintenance, and replacement of the on-reservation water distribution systems shall be allocated as follows: Up to 100 percent of the Tribe's share of the OM&R costs, as negotiated in the Agreements, shall be funded through the Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund established in section 913.

(3) **AGREEMENTS.**—Federal funds made available to carry out this subsection may be obligated and expended only in accordance with the Agreements entered into under subsection (g).

(4) **COMPONENTS.**—As described in the final engineering report, the on-reservation water distribution systems shall consist of—

(A) water systems in existence on the date of enactment of this title that may be purchased, improved, and repaired

in accordance with the Agreements entered into under subsection (g);

(B) water systems owned by individual members of the Tribe and other residents of the Reservation;

(C) any water distribution system that is upgraded to current standards, disconnected from low-quality wells; and

(D) connections.

(5) CONSTRUCTION OF NEW FACILITIES, OR EXPANSION OR REHABILITATION OF CURRENT FACILITIES.—The Tribe shall use \$10,000,000 of the \$15,000,000 appropriated pursuant to the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106-163), plus accrued interest, in the purchase, construction, expansion, or rehabilitation of the on-reservation water distribution systems.

(g) AGREEMENTS.—Federal funds made available to carry out subsections (b), (c), and (f) may be obligated and expended only in accordance with the agreements entered into under this subsection.

(1) IN GENERAL.—At the request of the Tribe, the Secretary shall enter into self-governance agreements under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.) with the Tribe, in accordance with this title—

(A) through the Bureau of Reclamation, to plan, design, and construct the core system; and

(B) through the Bureau of Indian Affairs, to operate, maintain, and replace the core system and the on-Reservation water distribution systems.

(2) PROJECT OVERSIGHT ADMINISTRATION.—The amount of Federal funds that may be used to provide technical assistance and conduct the necessary construction oversight, inspection, and administration of activities in paragraph (1)(A) shall be negotiated with the Tribe and shall be an allowable project cost.

(h) SERVICE AREA.—The service area of the Rocky Boy's Rural Water System shall be the core system and the Reservation.

(i) TITLE TO CORE SYSTEM.—Title to the core system—

(1) shall be held in trust by the United States for the Tribe; and

(2) shall not be transferred unless a transfer is authorized by an Act of Congress enacted after the date of enactment of this title.

(j) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide such technical assistance as is necessary to enable the Tribe to—

(1) plan, design, and construct the core system, including management training. Such technical assistance shall be deemed as a core system project construction cost; and

(2) operate, maintain, and replace the core system and the on-reservation water distribution systems. Such technical assistance shall be deemed as a core system and an on-reservation water distribution systems operation, maintenance, and replacement cost, as appropriate.

**SEC. 905. NONCORE SYSTEM.**

(a) **IN GENERAL.**—The Secretary is authorized to enter into Cooperative Agreements with the Authority to provide Federal funds for the planning, design, and construction of the noncore system in Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, outside the Reservation.

(b) **FEDERAL SHARE.**—

(1) **PLANNING, DESIGN, AND CONSTRUCTION.**—The Federal share of the cost of planning, design, and construction of the noncore system shall be 80 percent and will be funded through annual appropriations to the Bureau of Reclamation.

(2) **OPERATION, MAINTENANCE, AND REPLACEMENT OF NON-CORE SYSTEM COMPONENTS.**—The cost of operation, maintenance, and replacement associated with water deliveries to the noncore system shall not be a Federal responsibility and shall be borne by the Authority.

(3) **COOPERATIVE AGREEMENTS.**—Federal funds made available to carry out this section may be obligated and expended only in accordance with the Cooperative Agreements entered into under subsection (d).

(c) **COMPONENTS.**—As described in the final engineering report, the components of the noncore system on which Federal funds may be obligated and expended under this section shall include—

(1) storage, pumping, and pipeline facilities;

(2) appurtenant buildings, maintenance equipment, and access roads;

(3) all property and property rights necessary for the facilities described in this subsection;

(4) electrical power transmission and distribution facilities necessary for service to noncore system facilities; and

(5) other facilities and services customary to the development of a rural water distribution system in the State.

(d) **COOPERATIVE AGREEMENTS.**—

(1) **IN GENERAL.**—The Secretary is authorized to enter into the Cooperative Agreements with the Authority to provide Federal funds and necessary assistance for the planning, design, and construction of the noncore system. The Secretary is further authorized to enter into a tri-partite Cooperative Agreement with the Authority and the Tribe addressing the allocation of operation, maintenance and replacement costs for the core system and action that can be undertaken to keep those costs within reasonable levels.

(2) **MANDATORY PROVISIONS.**—The Cooperative Agreements under paragraph (1) shall specify, in a manner that is acceptable to the Secretary and the Authority—

(A) the responsibilities of each party to the agreements for—

(i) the final engineering report;

(ii) engineering and design;

(iii) construction;

(iv) water conservation measures;

(v) environmental and cultural resource compliance activities; and

(vi) administration of contracts relating to performance of the activities described in clauses (i) through (v);

(B) the procedures and requirements for approval and acceptance of the design and construction and for carrying out other activities described in subparagraph (A); and

(C) the rights, responsibilities, and liabilities of each party to the agreements.

(3) **PROJECT OVERSIGHT ADMINISTRATION.**—The amount of Federal funds that may be used to provide technical assistance and to conduct the necessary construction oversight, inspection, and administration of activities in paragraph (1) shall be negotiated with the Authority, and shall be an allowable project cost.

(e) **SERVICE AREA.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the service area of the noncore system shall be generally defined as the area—

(A) north of the Missouri River and Dutton, Montana;

(B) south of the border between the United States and Canada;

(C) west of Havre, Montana;

(D) east of Cut Bank Creek in Glacier County, Montana; and

(E) as further defined in the final engineering report, referenced in section 904(a).

(2) **EXCLUSIONS FROM SERVICE AREA.**—The service area of the noncore system shall not include the area inside the Reservation.

(f) **LIMITATION ON USE OF FEDERAL FUNDS.**—The operation, maintenance, and replacement expenses for the noncore system—

(1) shall not be a Federal responsibility;

(2) shall be borne by the Authority; and

(3) the Secretary may not obligate or expend any Federal funds for the OM&R of the noncore system.

(g) **TITLE TO NONCORE SYSTEM.**—Title to the noncore system shall be held by the Authority.

(h) **AUTHORITY TO ACQUIRE PROPERTY.**—Where, in carrying out the provisions of this title for construction of the noncore system, it becomes necessary to acquire any rights or property, the Authority, acting pursuant to State law, Mont. Code Ann. Sec. 75-6-313 (2001), is hereby authorized to acquire the same by condemnation under judicial process, and to pay such sums which may be needed for that purpose. Nothing in this section shall apply to land held in trust by the United States.

#### **SEC. 906. LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.**

The Secretary shall not obligate funds for construction of the core system or the noncore system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the core system and the noncore system;

(2) the date that is 90 days after the date of submission to Congress of a final engineering report approved and transmitted by the Secretary; and

(3) the Secretary publishes a written finding that the water conservation plan developed under section 911(a) includes prudent and reasonable water conservation measures for the operation of the Rocky Boy's/North Central Montana Regional Water

Deadline.  
Reports.

Publication.



System that have been shown to be economically and financially feasible.

**SEC. 907. CONNECTION CHARGES.**

The cost of connection of nontribal community water distribution systems and individual service systems to transmission lines of the core system and noncore system shall be the responsibility of the entities receiving water from the transmission lines.

**SEC. 908. AUTHORIZATION OF CONTRACTS.**

The Secretary is authorized to enter into contracts with the Authority for water from Lake Elwell providing for the repayment of its respective share of the construction, operation, maintenance and replacement costs of Tiber dam and reservoir, as determined by the Secretary, in accordance with Federal Reclamation Law (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplemental thereto).

**SEC. 909. TIBER RESERVOIR ALLOCATION TO THE TRIBE.**

(a) **NO DIMINISHMENT OF STORAGE.**—In providing for the delivery of water to the noncore system, the Secretary shall not diminish the 10,000 acre-feet per year of water stored for the Tribe pursuant to section 201 of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106-163) in Lake Elwell, Lower Marias Unit, Upper Missouri Division, Pick-Sloan Missouri Basin Program, Montana.

(b) **DRAW OF SUPPLY; PURCHASE OF ADDITIONAL WATER.**—In providing for delivery of water to Rocky Boy's Indian Reservation for the purposes of this title, the Tribe shall draw its supply from the 10,000 acre-feet per year of water stored for the Tribe pursuant to section 201 of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Act of 1999 (Public Law 106-163) in Lake Elwell, Lower Marias Unit, Upper Missouri Division, Pick-Sloan Missouri Basin Program, Montana. Nothing in this title shall prevent the Tribe from entering into contracts with the Secretary for the purchase of additional water from Lake Elwell.

**SEC. 910. USE OF PICK-SLOAN POWER.**

The Secretary of the Interior, in cooperation with the Secretary of Energy, is directed to make Pick-Sloan Missouri Basin Program preference power available, for the purposes of this title. Power shall be made available when pumps are energized and/or upon completion of the Project.

**SEC. 911. WATER CONSERVATION PLAN.**

(a) **IN GENERAL.**—The Tribe and the Authority shall develop and incorporate into the final engineering report a water conservation plan that contains—

- (1) a description of water conservation objectives;
- (2) a description of appropriate water conservation measures; and
- (3) a time schedule for implementing the water conservation measures to meet the water conservation objectives.

(b) **PURPOSE.**—The water conservation plan under subsection (a) shall be designed to ensure that users of water from the core system, on-reservation water distribution systems, and the noncore

system will use the best practicable technology and management techniques to conserve water.

(c) COORDINATION OF PROGRAMS.—Section 210 (a) and (c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390jj (a) and (c)) shall apply to activities under section 911 of this title. Applicability.

#### SEC. 912. WATER RIGHTS.

This title does not—

(1) impair the validity of or preempt any provision of State water law or any interstate compact governing water;

(2) alter the right of any State to any appropriated share of the water of any body of surface or ground water, whether determined by any past or future interstate compact or by any past or future legislative or final judicial allocation;

(3) preempt or modify any Federal or State law or interstate compact concerning water quality or disposal;

(4) confer on any non-Federal entity the authority to exercise any Federal right to the water of any stream or to any ground water resource; or

(5) affect any right of the Tribe to water, located within or outside the external boundaries of the Reservation, based on a treaty, compact, Executive Order, Agreements, Act of Congress, aboriginal title, the decision in *Winters v. United States*, 207 U.S. 564 (1908) (commonly known as the “Winters Doctrine”), or other law.

#### SEC. 913. CHIPPEWA CREE WATER SYSTEM OPERATION, MAINTENANCE, AND REPLACEMENT TRUST FUND.

(a) ESTABLISHMENT OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the “Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund”, to be managed and invested by the Secretary.

(b) CONTENTS OF FUND.—The Fund shall consist of—

(1) the amount of \$15,000,000 as the Federal share, as authorized to be appropriated in section 914(c);

(2) the Tribe shall deposit into the Fund \$5,000,000 of the \$15,000,000 appropriated pursuant to the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106-163); and

(3) such interest as may accrue, until expended according to subsections (d) and (f).

(c) MANAGEMENT OF THE FUND.—The Secretary shall manage the Fund, make investments from the Fund, and make monies available from the Fund for distribution to the Tribe consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) (referred to in this section as the “Trust Fund Reform Act”), and this title.

(d) USE OF FUND.—The Tribe shall use accrued interest, only, from the Fund for operation, maintenance, and replacement of the core system and the on-reservation distribution, only, pursuant to an operation, maintenance and replacement plan approved by the Secretary.

(e) INVESTMENT OF FUND.—The Secretary shall, after consulting with the Tribe on the investment of the Fund, invest amounts in the Fund in accordance with—

(1) the Act of April 1, 1880 (21 Stat. 70, chapter 41; 25 U.S.C. 161);

(2) the first section of the Act of February 12, 1929 (25 U.S.C. 161a);

(3) the first section of the Act of June 24, 1938 (25 U.S.C. 162a); and

(4) subsection (b).

(f) EXPENDITURES AND WITHDRAWAL.—

(1) TRIBAL MANAGEMENT PLAN.—

(A) WITHDRAWAL BY TRIBE.—The Tribe may withdraw all or part of the Fund on approval by the Secretary of a tribal management plan as described in the Trust Fund Reform Act.

(B) REQUIREMENTS.—In addition to the requirements under the Trust Fund Reform Act, the tribal management plan shall require that the Tribe spend any funds only in accordance with the purposes described in subsections 913 (d) and (f).

(2) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any monies withdrawn from the Fund under the plan are used in accordance with this title.

(3) LIABILITY.—If the Tribe exercises the right to withdraw monies from the Fund pursuant to the Trust Fund Reform Act, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the monies withdrawn.

(4) OPERATION, MAINTENANCE, AND REPLACEMENT PLAN.—Expenditures of accrued interest, only, from the Fund may be made for operation, maintenance, and replacement plan approved by the Secretary.

(A) IN GENERAL.—The Tribe shall submit to the Secretary for approval an operation, maintenance, and replacement plan for any funds made available to it under this section.

(B) DESCRIPTION.—The plan shall describe the manner in which, and the purposes for which, funds made available to the Tribe will be used.

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall, in a timely manner, approve the plan if the Secretary determines that the plan is reasonable and consistent with this title.

(5) AVAILABILITY.—Funds made available from the fund under this section shall be available without fiscal year limitation.

(6) ANNUAL REPORT.—The Tribe shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(g) NO PER CAPITA DISTRIBUTIONS.—No part of the Fund shall be distributed on a per capita basis to members of the Tribe.

#### SEC. 914. AUTHORIZATION OF APPROPRIATIONS.

(a) CORE SYSTEM.—There is authorized to be appropriated \$129,280,000 to the Bureau of Reclamation for the planning, design, and construction of the core system. The Tribal portion of the

costs shall be 76 percent. The Authority's portion of the costs shall be 24 percent.

(b) **ON-RESERVATION WATER DISTRIBUTION SYSTEMS.**—The Tribe shall use \$10,000,000 of the \$15,000,000 appropriated pursuant to the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106-163), plus accrued interest, in the purchase, construction, expansion or rehabilitation of the on-reservation water distribution systems.

(c) **CHIPPEWA CREE WATER SYSTEM OPERATION, MAINTENANCE, AND REPLACEMENT TRUST FUND.**—For the Federal contribution to the Fund, established in section 913, there is authorized to be appropriated to the Bureau of Indian Affairs the sum of \$7,500,000 each year for fiscal year 2005 and 2006.

(d) **NONCORE SYSTEM.**—There is authorized to be appropriated \$73,600,000 to the Bureau of Reclamation for the planning, design, and construction of the noncore system.

(e) **COST INDEXING.**—The sums authorized to be appropriated under this section may be increased or decreased by such amounts as are justified by reason of ordinary fluctuations in development costs incurred after the date of enactment of this title, as indicated by engineering cost indices applicable for the type of construction involved.

## **TITLE X—MISCELLANEOUS**

### **SEC. 1001. SANTEE SIOUX TRIBE, NEBRASKA, WATER SYSTEM STUDY.**

(a) **STUDY.**—Pursuant to reclamation laws, the Secretary of the Interior (hereafter in this section referred to as the "Secretary"), through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (hereafter in this section referred to as the "Tribe"), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

(b) **COOPERATIVE AGREEMENT.**—At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

(c) **REPORT.**—Not later than 1 year after funds are made available to carry out this section, the Secretary shall transmit to Congress a report containing the results of the study required by subsection (a).

Deadline.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary \$500,000 to carry out this section.

### **SEC. 1002. YUOK TRIBE AND HOPLAND BAND INCLUDED IN LONG-TERM LEASING.**

(a) **IN GENERAL.**—The first section of the Act entitled "An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other

purposes requiring the grant of long-term leases", approved August 9, 1955 (25 U.S.C. 415(a)) is amended by inserting "lands held in trust for the Yurok Tribe, lands held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria," after "Pueblo of Santa Clara,".

Applicability.  
25 USC 415 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any lease entered into or renewed after the date of the enactment of this title.

Approved December 13, 2002.

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LEGISLATIVE HISTORY—S. 2017 (H.R. 3407):

HOUSE REPORTS: No. 107-630 accompanying H.R. 3407 (Comm. on Resources).

SENATE REPORTS: No. 107-249 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 17, considered and passed Senate.

Nov. 14, considered and passed House, amended.

Nov. 20, Senate concurred in House amendment.